IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 19086 of 2001

Between:

The Municipal Council, Rep. by its Commissioner,
Qutubullapur Municipality, Ranga Reddy District.

..... PETITIONER

AND

1 Labour Court –III, rep. by its Presiding Officer.
(Now Labour Court-I, Hyderabad)
2 The Deputy Commissioner of Labour, Ranga Reddy Zone,
Anjaiah Karmika Sankshema Bhavan, RTC "X" Roads,
Hyderabad-20.
3 R.Srinivasa Rao S/o.Veeraraghaiah.
4 M.Narasimha, S/o.Yellaiah.
5 D.Srinivas, S/o. Narasimha.
6 G.Murali, S/o. Laxmaiah.
7 A.Eshwaraiah, S/o. Rajaiah.
8 K.Vittal, S/o.Govind.
9 P.Durgamaiah, S/o. not known.
10 Ch.Krishna, S/o.Rama laxmaiah.
11 K.Yadagiri, S/o.Ellaiah.
12 D.Yadagiri, S/o.D.Bikshamaiah.
13 M.Devaya, S/o.Narsimha.
14 D.Shyam Sunder, S/o. Pentaiah.
15 R.Raju, S/o. Ramaiah.
16 D.Kantha Rao, S/o.Ramulu.
17 A.Hanumanth Rao, S/o. Balaram.
18 M.Narasinga Rao, S/o. not known.
19 A.Chitari, S/o. not known.
20 N.Satyanaraya, S/o. not known.
21 M.Shandar, S/o. not known.
22 D.Krishna, S/o. not known.
23 S.Raju, S/o.Narasimha.
24 K.Devender, S/o. not known.
25 B.Rameshwar Rao, S/o. not known.

26 J.Narsingha Rao, S/o.Hanumaiah.
27 S.K.Moulana, S/o.Mazhar.
28 V.Raju Kumar, S/o.Yadagiri.
29 R.Raju, S/o. Raghavulu.
30 E.Paddalu, S/o.Narsaiah.
31 R.Gopal, S/o.Ramaiah.
32 L.Bikshapathy, S/o.Narsimha.
33 Y.Suresh Babu, S/o.Venkatappaiah.
34 P.Ananda Babu, S/o.David.
35 MD.Muzeeb, S/o.Abdul Rehman.
36 D.Srisailam, S/o.Narsimha.
37 A.Shoba, S/o. not known.
38 M.Krishna, S/o. Narsimha.
39 M.Yadagiri, S/o.Narsimha.
40 Mohd.Shakeel Ahmed, S/o. not known.
41 S.Vijayasarathy, S/o. not known.

RR.3 to 41 are r/o.C/o. A.K.Jayaprakash Rao, R/o. 3-4-206/2 Lingampally, Kachiguda , Hyderabad-27.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in seeking to recover the amount of Rs.3,27,600/- with 18% interest per annum by addressing letter No.B/2839/2000, dt: 27-8-2001 to the Hon'ble Judicial Magistrate, Ranga Reddy District as wholly illegal, arbitrary and unwarranted when petition for setting aside the ex-parte order is pending before the Labour Court-I, Hyderabad.

Counsel for the Petitioner: MR.V.VISWANATHAM

Counsel for the Respondents 1 & 2 : GP FOR LABOUR

Counsel for the Respondents 3 to 21, 23 to 41: Sri A.K.Jayaprakash Rao.

Counsel for the Respondent no.22: None appeared.

The Court made the following :

ORDER:

Heard Sri V.Viswanatham, learned counsel appearing for the petitioner and Sri A.K.Jayaprakash rao, learned counsel appearing on behalf of the respondents 3 to 41.

The petitioner herein, which is a Municipality, filed this Writ Petition, *inter alia*, challenging the action of the second respondent in seeking to recover a sum of Rs.3,27,600/- with interest at 18% per annum as illegal and arbitrary when the petition for setting aside the *ex parte* order in M.P.No.51 of 1996 is pending before the Labour Court-I, Hyderabad.

The main grievance of the petitioner is that the claim as made is totally not maintainable since there is no master and servant relationship between the petitioner and the contesting respondents and in fact they were engaged by a contractor and therefore the liability, if any, cannot be fastened on the petitioner. That apart, it is also pointed out that having regard to the earlier proceedings in W.P.No.7842 of 1997 filed by the petitioners which was dismissed on 19.08.1998 as confirmed in Writ Appeal No.1392 of 1998 by a Division Bench of this Court on 08.09.1998 and also the proceedings in I.D.No.13 of 1999 at the instance of the petitioners themselves which was dismissed on 15.07.2000, the entire claim is wholly un-sustainable. Further, it is also their case that the petitioner herein was set *ex parte* on 10.09.1998. Even though an application was filed to set aside the *ex parte* order, the same was returned on the ground of jurisdiction and the main application is still pending before the appropriate Court. Hence, the writ petition.

The learned counsel for the petitioner submits that having regard to the aforesaid facts and circumstances, it is more desirable that an opportunity should be given to contest the case more so in view of the earlier round of litigation at the instance of the petitioner.

The learned counsel for the contesting respondents submits that the present claim is only for difference of wages based upon the minimum wages as fixed under the provisions of the Minimum Wages Act and therefore, all the earlier proceedings do not have any effect on the present claim.

Considering the submissions made and on perusal of the material, the only question which falls for consideration is as to whether basically the contesting respondents are entitled for the claim as made and whether the matter requires to be

set aside to provide an opportunity to the petitioner ?

There is no dispute to the fact that the contesting respondents were engaged through a Contractor and they were being paid wages far less than the minimum wages as prescribed under the Minimum Wages Act. Therefore, the present claim is only for the difference. Whereas the earlier proceedings in the writ petition are for regularisation and other benefits on a reference of dispute under the provisions of the Industrial Disputes Act. Therefore, those proceedings do not come in the way of the present Writ Petition. Apparently, the petitioner having been set ex parte on 10.09.1998, took a long time to file the application after 20 months and 15 days though it was returned earlier but the same is said to be pending. Be that as it may, the fact remains that except referring the earlier proceedings which are nothing to do with the present claim nor come against the contesting respondents herein, no other substantial ground has been shown as to how and why the respondents can not make any claim basing upon the minimum wages as fixed under the provisions of the Minimum Wages Act. Therefore, it has to be held that the respondents are entitled for the difference of wages on par with the wages prescribed under the Minimum Wages Act. In the circumstances, I do not find any merits in the Writ Petition and no indulgence is shown to set aside the proceedings at this length of time. But, having regard to the facts and circumstances, the interest as granted by the first respondent is reduced from 18% to 9%.

The Writ Petition is, accordingly, dismissed. No costs.

(B.Prakash Rao, J.)

05.04.2005

DRK/Chvn.

Copy to:

1 The Presiding Officer, Labour Court –III, (Now Labour Court-I), Hyderabad.
2 The Deputy Commissioner of Labour, Ranga Reddy Zone,
Anjaiah Karmika Sankshema Bhavan, RTC "X" Roads, Hyderabad-20.

3 Two CCs to the G.P. for Labour, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

4. Two CD copies.